IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

Crl.MC.No. 1685 of 2007()

CC.534/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PARAPPANANGADI

.....

PETITIONER/ACCUSED:

---

1. MOHANAN, S/O.KRISHNAN,
PANDIKASALA VEETTIL,
ULLANAM ROAD,
PARAPPANANGADI.

2. DEVAKI, W/O.KRISHNAN,
PANDIKASALA VEETTIL,
ULLANAM ROAD,
PARAPPANANGADI.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS/STATE AND COMPL:

---

1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

2. MRS.MINI,
S/O.MOHANAN,
PANDIKASALA VEETTIL,
ULLANAM ROAD,
PARAPPANANGADI.

BY ADV. SMT.K.A.ANGEL TREENA
PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1685 of 2007

Dated this the 25th day of May 2007

O R D E R

The petitioners - son and mother face indictment interalia for the offence punishable under Section 498A I.P.C. Cognizance has been taken by the learned Magistrate on the basis of the final report submitted by the police after due investigation. The petitioners are the husband and mother-in-law of the second respondent herein. Proceedings were initiated on the basis of a complaint filed by the second respondent.

2. The petitioners have come before this court now with a request that proceedings initiated against them may be quashed invoking the powers under Section 482 Cr.P.C. The short ground urged is that the petitioners and the second respondent have settled their disputes. The spouses have resumed co-habitation. Continuance of the prosecution is remaining as an unnecessary irritant in their relationship. In these circumstances, the proceedings may be prematurely terminated, prays the learned counsel for the petitioners.

3. The second respondent has entered appearance through counsel. The learned counsel for the second respondent confirms that the matter has been settled. Both counsel agree to file a joint

application to confirm that the matter has been settled and the offence compounded by the second respondent. I am satisfied, in the light of the averments made in the Crl.MC and the submissions made at the Bar that the parties have settled their disputes amicably and the spouses have resumed co-habitation harmoniously. If the composition can be accepted, I have no hesitation to agree that the proceedings can be brought to premature termination.

4. But the offence under Section 498A I.P.C is not legally compoundable. The learned counsel for the petitioner rightly relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. The said decision is authority for the proposition that the provisions of Section 320 Cr.P.C do not fetter the width and amplitude of the powers under Section 482 Cr.P.C. The interests of justice may, at times, transcend the interests of mere law and in such circumstance, this court cannot hesitate to invoke the powers under Section 482 Cr.P.C merely because Section 320 Cr.P.C does not permit composition of such offence.

5. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.534/2004 before the Judicial First Class Magistrate Court Parappanangady against the petitioners is set aside.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007